

**PART 161—FISH AND SHELLFISH****Subpart A—General Provisions**

Sec.

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AUTHORITY: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

SOURCE: 42 FR 14464, Mar. 15, 1977, unless otherwise noted.

**Subpart A—General Provisions****§ 161.30 Declaration of quantity of contents on labels for canned oysters.**

(a) For many years packers of canned oysters in the Gulf area of the United States have labeled their output with a declaration of the drained weight of oysters in the containers. Packers in other areas have marketed canned oysters with a declaration of the total weight of the contents of the container. Investigation reveals that under present-day practice consumers generally do not discard the liquid packing medium, but use it as a part of the food. Section 403(e)(2) of the Federal Food, Drug, and Cosmetic Act and the regulations thereunder require food in package form to bear an accurate label statement of the quantity of food in the container.

(b) It is concluded that compliance with the label declaration of quantity of contents requirement will be met by an accurate declaration of the total weight of the contents of the can. The requirements of §161.145(c), establishing a standard of fill of container for canned oysters and specifying the statement of substandard fill for those canned oysters failing to meet that standard remain unaffected by this interpretation.

**Subpart B—Requirements for Specific Standardized Fish and Shellfish****§ 161.130 Oysters.**

(a) Oysters, raw oysters, shucked oysters, are the class of foods each of which is obtained by shucking shell oysters and preparing them in accordance with the procedure prescribed in paragraph (b) of this section. The name of each such food is the name specified in the applicable definition and standard of identity prescribed in §§161.131 to 161.140, inclusive.

(b) If water, or salt water containing less than 0.75 percent salt, is used in any vessel into which the oysters are shucked the combined volume of oysters and liquid when such oysters are emptied from such vessel is not less than four times the volume of such water or salt water. Any liquid accumulated with the oysters is removed. The oysters are washed, by blowing or otherwise, in water or salt water, or both. The total time that the oysters are in contact with water or salt water after leaving the shucker, including the time of washing, rinsing, and any other contact with water or salt water is not more than 30 minutes. In computing the time of contact with water or salt water, the length of time that oysters are in contact with water or salt water that is agitated by blowing or otherwise, shall be calculated at twice its actual length. Any period of time that oysters are in contact with salt water containing not less than 0.75 percent salt before contact with oysters, shall not be included in computing the time that the oysters are in contact with water or salt water. Before packing into the containers for shipment or other delivery for consumption the oysters are thoroughly drained and are packed without any added substance.

(c) For the purposes of this section:

(1) *Shell oysters* means live oysters of any of the species, *Ostrea virginica*, *Ostrea gigas*, *Ostrea lurida*, in the shell, which, after removal from their beds, have not been floated or otherwise held under conditions which result in the addition of water.

(2) *Thoroughly drained* means one of the following: